

**DELEGATION OF AUTHORITY
CLEAN WATER ACT (CWA)**

Determination of Treatment of Indian Tribes as States

1. **AUTHORITY.** To determine whether an Indian Tribe shall be treated as a State for purposes of programs under Title II and Sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of the CWA, in accordance with Section 518 of the CWA, as amended. A separate determination must be made for each CWA program.
2. **TO WHOM DELEGATED.** To the Directors, Office of Water and Watersheds or equivalent and Office of Ecosystems, Tribal and Public Affairs or equivalent.
3. **LIMITATIONS.**
 - a. The delegates are required to obtain concurrence from the Assistant Administrators for Water and Enforcement and Compliance Assurance and the General Counsel or their designees prior to making the first final determination for treatment of a tribe as a State for each program in the Region.
 - b. The Office of Water and the Office of Enforcement and Compliance Assurance may waive the concurrence limitation on a case-by-case basis. The delegates will be responsible for maintaining a record of any waiver of this limitation and sending a copy of any waiver to the Management and Organization Division (PM-213).
 - c. Any subsequent final determinations in that program may be made by the delegates with the concurrence of the Regional Counsel.
 - d. The authority to approve initial determinations remains with the Regional Administrator. This delegation is limited to the authority to approve any amendments to an initial determination or to approve any subsequent determination.
4. **REDELEGATION AUTHORITY.** This authority may not be redelegated.

5. SUPERSESSION. This delegation supersedes R10 2-78 (12/07/00) and any other delegation of the same authority.
6. ADDITIONAL REFERENCES.
 - a. 33 U.S.C. § 1378.
 - b. 40 C.F.R. Parts 31, 35, 122-124, 135, and 230-233.
 - c. Delegation 2-78 (5/11/1994).

October 28, 2004
Date

/s/ Ronald A. Kreizenbeck
Ronald A. Kreizenbeck
Acting Regional Administrator